

MAR 10 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALVARO JOSE-GONZALEZ,

Defendant - Appellant.

No. 07-10090

D.C. No. CR-06-01205-CKJ

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona

Cindy K. Jorgenson, District Judge, Presiding

Submitted February 26, 2008^{**}

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Alvaro Jose-Gonzalez appeals from the 46-month sentence imposed following his guilty plea conviction for illegal re-entry after deportation, in

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Jose-Gonzalez contends that the district court erred by enhancing his sentence based on a prior conviction because the prior conviction was neither admitted or proven to a jury beyond a reasonable doubt. This contention is foreclosed. *United States v. Zepeda-Martinez*, 470 F.3d 909, 912 (9th Cir. 2006). To the extent that Jose-Gonzalez contends that there was no proof of his prior conviction, this is belied by the record. *See* Fed. R. of Crim. P. 32(i)(3)(A).

Jose-Gonzalez further contends that the district court failed to appropriately apply the Guidelines and gave excessive weight to the prior conviction. We conclude that the district court applied the appropriate legal standard and properly considered the 18 U.S.C. § 3553(a) sentencing factors. *See United States v. Perez-Perez*, 512 F.3d 514, 516-17 (9th Cir. 2008); *see also* U.S.S.G. § 2L1.2 cmt. n. 6. We further conclude that Jose-Gonzalez's sentence is reasonable. *See Gall v. United States*, 128 S. Ct. 586, 596-97 (2007).

AFFIRMED.